HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION Nos.21654 and 33749 of 1997

Dated: 29.03.2007

WRIT PETITION No.21654 of 1997

Between

Sabavatu Ameena

..... Petitioner

And

Govt. of A.P., reptd by its
Commissioner, Tribunal Welfare,
Hyderabad and three others.

.....Respondents

AND

WRIT PETITION No.33749 of 1997

Between

Bhukya Shankar

..... Petitioner

And

The Commissioner of Tribunal Welfare,
Govt of A.P., Hyderabad and three others.

.....Respondents

HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION Nos.21654 and 33749 of 1997

COMMON ORDER:

Since both W.P.Nos.21654 and 33749 of 1997 are connected, they were taken up for hearing together and are now being disposed of by a common order.

Despite the writ petitions being listed under the caption “for dismissal” on 28.03.2007, while Sri C.Damodar Reddy, learned counsel for the petitioner in W.P.No.33749 of 1997 and the Government Pleader for Social Welfare were present, none appeared on behalf of Sri D.Jaipal Reddy, learned counsel for the petitioner in W.P.No.21654 of 1997. To provide another opportunity for the learned counsel, both these matters were listed under the caption “for judgment” today and today, since none appeared on behalf of Sri D.Jaipal Reddy, learned counsel for the petitioner in W.P.No.21654 of 1997, both the writ petitions are now being disposed of by a common order based on the averments/pleadings in the writ petitions.

For the sake of convenience, the parties will be hereinafter referred to as arrayed in W.P.No.33749 of 1997.

Sri Bhukya Shankar-the petitioner in W.P.No.33749 of 1997 questions the action of the third respondent in re-appointing the fourth respondent-Sri Sabavatu Ameena (petitioner in W.P.No.21654 of 1997) as a teacher in Yerraboduthanda Girijana Vidya Vikas Kendra School, Enkur Mandal, Khammam District, cancelling his appointment vide proceedings dated 22.10.1997, as arbitrary and illegal.

This Court, by order in W.P.M.P.No.39713 of 1997 in W.P.No.33749 of 1997 dated 18.12.1997, granted interim suspension of the operation of the order of the third respondent dated 22.10.1997 and pursuant thereto, Sri Bhukya Shankar is said to be continuing as a teacher in the said school as on date.

Facts, in brief, are that Sri Bhukya Shankar, having passed X Class in second Division in the year 1990, started working as a teacher from 17.10.1995. The Government established Girijana Vidya Vikasa Kendras throughout the State and pursuant thereto, the third respondent invited applications for appointment of teachers in Girijana Vidya Vikasa Kendra School of

Yerraboduthanda. Certain guidelines were issued by the Government for appointment of teachers and among the conditions prescribed thereunder were that teachers appointed in the said school must be residents of the same village and, in case of non-availability, the post should be filled up with a person residing within 2 kms of the village, where the school is proposed to be established. Since Sri Bhukya Shankar was a resident of Yerraboduthanda, he applied for the post of teacher. The fourth respondent, a resident of Suryathanda of Enkur Mandal Gram Panchayat, which is said to be situated at a distance of 4 ½ kms from Yerraboduthanda, also applied for the post. The petitioner would contend that the fourth respondent was not eligible to hold the post of teacher since he was working as a fair price shop dealer at Suryathanda for the last five years. Based on the report of the Development Officer of the Integrated Tribal Development Agency (for short 'ITDA'), the fourth respondent was appointed as a teacher for Yerraboduthanda Girijana Vidya Vikasa Kendra School vide proceedings dated 22.02.1997. Questioning the order of the third respondent, the petitioner herein filed W.P.No.5615 of 1997 and the said writ petition was disposed of at the stage of admission on 21.03.1997, directing the petitioner to submit a representation to the second respondent-District Collector and Chairman of the ITDA, who was directed to conduct an enquiry by giving

notices to all concerned. Accordingly, the petitioner submitted a representation to the second respondent and the second respondent in turn, by his note order dated 23.04.1997, directed the fourth respondent therein to conduct an enquiry into the allegations made in the representation. Pursuant thereto, the District Educational Officer, Bhadrachalam, is said to have issued notices both to the petitioner and the fourth respondent to attend the enquiry on 25.07.1997. Accordingly, both the petitioner and the fourth respondent and other officers are said to have attended the enquiry. The distance between Yerraboduthanda and Suryathanda is said to have been measured by preparing a sketch. Through the pucca road route, the distance is said to be 4.4 kms and through the narrow path-way, the distance is said to be 2.8 kms. Consequent thereto, the Project Officer, Bhadrachalam, submitted a report to the second respondent proposing cancellation of the appointment of the fourth respondent herein and to issue appointment orders to the petitioner. Considering the report of the Project Officer, Bhadrachalam, the second respondent passed orders dated 10.07.1997 directing necessary action to be taken pursuant to the report. Consequent thereto, the Project Officer, Bhadrachalam, in his proceedings dated 31.07.1997, cancelled the appointment of the fourth respondent as a teacher and passed orders on the same day appointing the petitioner as a teacher in Girijana

Vidya Vikasa Kendra School at Yerraboduthanda. Questioning the cancellation of the appointment order, Sri Sabavatu Ameena filed W.P.No.21654 of 1997. The Project Officer passed an order dated 22.10.997 re-appointing the fourth respondent as a teacher in Girijana Vidya Vikasa Kendra at Yerraboduthanda cancelling the appointment of the petitioner without notice. Questioning the same, Sri Bhukya Shankar has filed W.P.No.33749 of 1997.

In W.P.No.21654 of 1997, Sri Sabavatu Ameena has questioned the proceedings dated 31.07.1997 on the ground that appointment to the post of teacher in the said School need not be from the same village but can be from the adjoining village and that his native village is situated at a distance of less than 3 kms from Yerraboduthanda. He further contended that he resigned as a fair price shop dealer no sooner he was appointed as a teacher in the said school, and that he was working in the said school till his appointment was terminated vide proceedings dated 31.07.1997.

In the counter-affidavit filed by the third respondent-Project Officer, ITDA, it is specifically stated that an enquiry was conducted by the Project Officer, ITDA, Bhadrachalam and on enquiry it was confirmed that Sri Bhukya Shankar was a resident of Yerraboduthanda, that Sri Sabavatu Ameena was a resident of Suryathanda and

that Suryathanda is situated at a distance of 2.4 kms from the location of the school. The District Collector also referred to the guidelines issued by the Director of Tribal Welfare, Hyderabad, and, since Sri Bhukya Shankar was a resident of Yerraboduthanda, the earlier appointment of Sri Sabavatu Ameena was cancelled and Sri Bhukya Shankar was re-appointed. Since no notice was given to Sabavatu Ameena, before his services were terminated, and as directed by this Court, in W.P.No.5615 of 1997, dated 21.03.1997, a notice was issued to Sri Sabavatu Ameena asking him to show cause as to why his services should not be terminated as he was not a resident of Yerraboduthanda. In response thereto, Sri Sabavatu Ameena admitted the fact that he is a resident of Suryathanda, which is situated at a distance of 2 kms from Yerraboduthanda and, inasmuch as the guidelines issued by the Director of Tribal Welfare required a person, who is residing at the place where Girijana Vidya Vikasa Kendra School is situated, to be appointed as a teacher, the services of Sri Sabavatu Ameena was terminated and Sri Bhukya Shankar was re-appointed vide proceedings dated 16.03.1998. Since the guidelines prescribed for appointment of a teacher in Girijana Vidya Vikasa Kendra School required the selected candidate to be a resident of the village and, only in case of non-availability, to appoint a person who is a resident of a nearby village, Sri Bhukya Shankar, a resident of Yerraboduthanda, where the

Girijana Vidya Vikasa Kendra was established, who satisfied the said requirement was rightly appointed as a teacher in the said school. Sri Sabavatu Ameena, even in his affidavit filed in support of W.P.No.21654 of 1997, would admit that he is not a resident of Yerraboduthanda and that Suryathanda, where he resides, is at a distance of 2 kms from the location of the said school. The validity of the guidelines issued by the Director of Tribal Welfare is not in issue in this writ petition and, as such, does not necessitate examination. Since the guidelines require a person appointed as a teacher in the Girijana Vidya Vikasa Kendra to be a resident of the village in which the school is established and, since the petitioner Sri Bhukya Shankar was a resident of the said village, he was rightly appointed as a teacher in the said school. The fourth respondent-Sri Sabavatu Ameena was not entitled to be appointed as a teacher in Girijana Vidya Vikasa Kendra School at Yerraboduthanda, since a resident of the village where the school was established, was available for being appointed as a teacher. The action of the second respondent, in passing the order on 31.07.1997, appointing Sri Bhukya Shankar as a teacher in Girijana Vidya Vikasa Kendra School, Yerraboduthanda cannot be faulted. The subsequent proceedings cancelling the appointment of the petitioner is contrary to the prescribed guidelines and must necessarily be quashed.

In the result, W.P.No.33749 of 1997 filed by Sri Bhukya Shankar is allowed and W.P.No.21654 of 1997 filed by Sri Sabavatu Ameena is dismissed. However, in the circumstances, without costs.

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29.03.2007

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